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EXAMINER	
NUTTER, NATHAN M	

ART UNIT	PAPER NUMBER
1711	

DATE MAILED: 07/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

Office Action Summary	**Application No.** 10/686,137	**Applicant(s)** KRAMER ET AL.
	Examiner Nathan M. Nutter	**Art Unit** 1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 May 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *12-14,17,18,20,22 and 23* is/are pending in the application.

4a) Of the above claim(s) *13 and 14* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *12,17,18,20,22 and 23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *10-03*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

Claims 1-11, 15, 16, 19, 21 and 24-78 have been cancelled.

Claims 12-14, 17, 18, 20, 22 and 23 remain pending.

Claims 13 and 14 are withdrawn as being non-elected without traverse.

The Information Disclosure Statement of 14 October 2003 has been considered and a copy thereof is included herein. Further, the reference to Oriakhi et al (US 2005/0074511) has been cited on the enclosed PTO-892.

The rejection of claims 12, 14-16 and 19-23 under 35 U.S.C. 102(e) as being anticipated by Kramer et al (US 2005/0049739), is hereby expressly withdrawn.

Claim Interpretations

The instant claims are drawn to a composition, per se. The intended use of the polymer composition bears no weight in the determination of patentability. The recitation of "for use in solid freeform fabrication" has not been shown to define patentable subject matter as to inclusion of specific constituents or compositional limitations as to the constituents recited in the claims.

The recitation "consisting essentially of," as provided in claim 12, limits the scope of a claim to the specified ingredients and those that do not materially affect the basic and novel characteristics of a composition, Ex parte Davis et al 80 U.S.P.Q. 448 (PTO Bd. App. 1948). For a constituent to materially affect the basic and novel characteristics of the resins, as herein claimed, it must be shown to affect either the fusibility of the resin or affect the resin's reactivity with a liquid binder, e.g. the chemical nature of the resin, per se, since the claims are drawn to such resin(s).

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 12, 15, 17, 18, 20, 22 and 23 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The recitations in claim 12 wherein "*the at least one polymer* is selected to be reactive with a liquid binder or is selected to be fusible at a temperature above the melting point or glass transition temperature of *the at least one polymer*," requires the artisan to perform the undue burden of experimentation to determine what polymer will be reactive with a liquid binder, and with what liquid binders. Further, an artisan would be required to perform the undue burden of experimentation to determine what polymer would be "fusible at a temperature above the melting point or glass transition temperature of the at least one polymer."

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 12, 15, 17, 18, 20, 22 and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recitation in claim 12 wherein "the at least one polymer is selected to be reactive with a liquid binder," relates to the recited polymer being defined by reference to a desirable characteristic or property. The property, "reactive with a liquid binder," would be present in identical compositions as inherent characteristics. Any polymer having the recited constituents would be deemed to possess this same property. Nothing is recited to indicate otherwise. Note *In re Spada*, 911 F 2^{nd} 705, 709 15 USPQ 1655, 1658 which held that "(w)hen the claimed compositions are not novel, they are not rendered patentable by recitation of properties whether or not these properties are shown or suggested." A patentee does not have to recognize a characteristic for that characteristic to be there. Regardless, the metes and bounds of the claims cannot be clearly ascertained since the constituents are not specifically recited or defined as to substance and not characteristics.

Further, the recitation in claim 12 wherein "the at least one polymer...is selected to be fusible at a temperature above the melting point or glass transition temperature of the at least one polymer," also relates to the recited polymer being defined by reference to a desirable characteristic or property. The property, "fusible at a temperature above the melting point or glass transition temperature of the at least one polymer," would be present in identical compositions as inherent characteristics. Any polymer having the recited constituents would be deemed to possess this same property, as above. Regardless, the metes and bounds of the claims cannot be clearly ascertained since the constituents are not specifically recited or defined as to substance and not characteristics.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., In re Berg, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

> Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 12, 20, 22 and 23 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-49 of copending Application No. 10/648,122, Kramer et al. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the published application embrace the subject matter recited and claimed herein. The polymers are employed in the identical capacities.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 12, 17, 18, 20, 22 and 23 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-25 of copending Application No. 10/650,571, Oriakhi et al. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the copending application embrace the subject matter as recited and claimed herein.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 12, 17 and 18 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-41 of copending Application No. 10/339,824, Kasperchik. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the copending application embrace the subject matter of the instantly claimed invention.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 12, 18, 20, 22 and 23 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-30 of copending Application No. 10/678,564, Oriakhi et al. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the copending application embrace the identical concept and constituents as herein recited.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 12, 18, 20, 22 and 23 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-80 of copending Application No. 10/434,313, Boyd et al. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed subject matter of the copending application may embrace the concepts and constituents as herein recited and claimed.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –

> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 12, 17, 18, 20, 22 and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Oriakhi et al (US 2005/0046067).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Note paragraph [0025] for particulate size, paragraph [0026] for the reactive resin, which may include polyacrylamide and poly vinyl alcohol copolymers (including the poly(ethylene-co-vinyl alcohol) of the single resin concept of claims 13 and 14 non-elected) as recited in claim 16 and poly(acrylic acid) of claim 17, paragraph [0030] for the fusible polymer, including a vinyl ester copolymer.

Claims 12, 17, 18, 20, 22 and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Kasperchik (US 2004/0161544).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Note paragraphs [0020]-[0022] for the broad concept, paragraph [0017] for the reactive resin, which may include a mixture of polyelectrolytes forming a polyelectrolyte complex (claims 15 and 16), paragraph [0019] shows polyacrylates and paragraph [0027] shows polyacrylic acid (claim 17) and paragraph [0023] shows concentration ranges.

Claims 12, 18, 20 and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Oriakhi et al (US 2005/0074511).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Note paragraph [0014] for the reactive binder which may be "epoxies, acrylates and polyurethanes, paragraph [0025] shows the use of poly methylmethacrylate for polymer powders (fusible polymer). Further, note paragraphs [0038]-[0039].

Claims 12, 18, 20, 22 and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Boyd et al (US 2004/0224173).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Note paragraphs [0022]-[0026] for the reactive binders which may be polyvinyl alcohol as recited in claims 15 and 16, and fusible resins of claims 19-21, including polymethyl methacrylate, paragraphs [0026] for polymer size ranges, paragraphs [0028]-[0031] for claims 18 and 22.

Claims 12, 18, 20, 22 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Schulman et al (US 2002/0125592).

The reference teaches the recited compositions at paragraph [0024] for the fusible polymer, including "polyesters, polyolefins...polyurethanes, vinyl esters or epoxy-based materials," as recited in claims 19-21. Further, note paragraph [0025] for the use of a methacrylate resin. Note paragraph [0028} for the compositional limitations of claim 18. The size limitations of claim 23 are shown at paragraph [0034]. Note paragraph [0057] for the inclusion of poly vinyl alcohol as a reactive polymer.

Claim Rejections - 35 USC § 102/103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 12, 20, 22 and 23 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Sietses et al (US 5,030,394) or Lin et al (US 6,340,720).

The reference to Sietses et al (US 5,030,394) teaches the manufacture of powder coatings that may comprise PVdF (polvinylidene fluoride) resin mixed with thermoplastic poly(methylmethacrylate), as recited and claimed herein (claims 12 and 19-21) at column 2 (lines 19-26 and 41-65). The compositional limitations are shown at the paragraph bridging column 2 to column 3 (claim 22). The particles are taught to have "an average particle size between about 0.03 to 0.05 mm (30 to 50 μm)" at the paragraph bridging column 3 to column 4 (claim 23).

The reference teaches the identical constituents as herein claimed as powder coating compositions. The instant claims provide no delineating or differentiating specific language that would be deemed to patentably distinguish the subject matter claimed herein and the teachings of the patent. As such, the invention of the instant claims is at least obvious, if not anticipated, by the reference to Sietses et al (US 5,030,394).

The reference to Lin et al (US 6,340,720) teaches the production of a powder coating composition that may comprise a thermoplastic poly vinylidene fluoride (PVdF) with a suitable fusible thermoplastic polymer that may comprise poly methyl methacrylate (PMMA), as herein recited (claims 19-21). Note column 3 (lines 11-33), the paragraph bridging column 3 to column 4 and column 4 (lines 23-42) for the broad concept. Note column 4 (lines 43-62) for the inclusion of the PMMA. A "particle size less than about 70 microns," embracing that recited in claim 23, is taught at column 8 (lines 17-23). The particle size is not deemed to be determinative of patentability since that is clearly a matter of choice as shown by the reference. For the compositional limitations as recited in claim 22, note patent claims 21 and 22.

The reference to Lin et al (US 6,340,720) shows the identical constituents as herein claimed for use in powder coating compositions. The instant claims provide no delineating or differentiating specific language that would be deemed to patentably distinguish the subject matter claimed herein and the teachings of the patent. As such, the invention of the instant claims is at least obvious, if not anticipated, by the reference to Lin et al (US 6,340,720).

Claims 12, 20 and 22 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Danforth et al (US 5,738,817).

The reference to Danforth et al (US 5,738,817) teaches the manufacture of a particulate binder system that may comprise the reactive polymers, including polyvinyl alcohol (claims 15 and 16) with polyethylene or poly vinyl acetate (claims 19-21). Note the paragraph bridging column 6 to column 7 and the claims which also teaches the concept of claims 18 and 22.

The reference to Danforth et al (US 5,738,817) teaches the identical constituents as herein claimed as powder coating compositions. The instant claims provide no delineating or differentiating specific language that would be deemed to patentably distinguish the subject matter claimed herein and the teachings of the patent. As such, the invention of the instant claims is at least obvious, if not anticipated, by the reference to Danforth et al (US 5,738,817).

Claims 12, 15, 16 and 18-23 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Van Dyk et al (US 3,676,172).

The patent to Van Dyk et al (US 3,676,172) teaches the manufacture of a powder coating composition including a fusible polymer, polymethyl methacrylate, with a reactive polymer that includes a primary amino group containing copolymer, methyl methacrylate/N,N-diethyl aminoethyl methacrylate, as recited in claims 12, 15, 16 and

18-22. At column 10, Example 3 shows a powder of “about 2-3 mils thick,” (about 50.8 to 76.2 μm thick).

The reference to Van Dyk et al (US 3,676,172) teaches the identical constituents as herein claimed as powder coating compositions. The size limitations of claim 23 are deemed to be embraced by the recitation of “about 2-3 mils.” The term “about” allows tolerance of values. “(A)t least 10%” was held to be anticipated by a teaching of a content “not to exceed about 8%.” *In re Ayers,* 154 F 2d 182, 69 USPQ 109. The instant claims provide no delineating or differentiating specific language that would be deemed to patentably distinguish the subject matter claimed herein and the teachings of the patent. As such, the invention of the instant claims is at least obvious, if not anticipated, by the reference to Van Dyk et al (US 3,676,172).

Claims 12, 18, 20, 22 and 23 are rejected under 35 U.S.C. 102(a) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Gutman et al (US 6,503,677).

The reference to Gutman et al (US 6,503,677) teaches the manufacture of a powder coating system that may comprise a fusible polymer, polymethylmethacrylate, with a reactive polymer, polyester urethane, as recited in claims 12 and 19-23, and a fusible polymer, polymethylmethacrylate, with a reactive polymer having a primary amino group, dimethylaminoethylmethacrylate, as recited in claims 12, 15, and 19-23. Note column 9 (lines 6-49) for the combinations as pointed out above. That passage also teaches the inclusion of the constituents, as recited in claim 18.

The reference to Gutman et al (US 6,503,677) teaches the identical constituents as herein claimed as powder coating compositions. The instant claims provide no delineating or differentiating specific language that would be deemed to patentably distinguish the subject matter claimed herein and the teachings of the patent. As such, the invention of the instant claims is at least obvious, if not anticipated, by the reference to Gutman et al (US 6,503,677).

Claims 12, 17, 20, 22 and 23 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Creatura et al (US 6,004,717).

The patent to Creatura et al (US 6,004,717) shows the manufacture of a powder coating composition that may comprise a fusible polymer, including (meth)acrylates at column 8 (lines 19-36) and a reactive polymer, that may include the polyurethanes, polyacrylics and amino resins, as recited in the instant claims. Note claim 3.

The reference to Creatura et al (US 6,004,717) teaches the identical constituents as herein claimed as powder coating compositions. The instant claims provide no delineating or differentiating specific language that would be deemed to patentably distinguish the subject matter claimed herein and the teachings of the patent. As such, the invention of the instant claims is at least obvious, if not anticipated, by the reference to Creatura et al (US 6,004,717).

Response to Arguments

Applicant's arguments filed 19 May 2006 have been fully considered but they are not persuasive.

With regard to the rejection of claims 12, 15, 17, 18, 20, 22 and 23 under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement, applicants have mischaracterized the rejection. The artisan would be required to employ the undue burden of experimentation with each possible resin to determine what polymer will be reactive with a liquid binder, and with what liquid binders, or, what polymer would be "fusible at a temperature above the melting point or glass transition temperature of the at least one polymer." The amendment fails to advance the enablement since each separate species recited would necessarily need the undue burden of experimentation, as pointed out above, to determine which would be suitable, and which would not.

With regard to the rejection of claims 12, 15, 17, 18, 20, 22 and 23 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, the amendment fails to delineate the metes and bounds of the claims since it still defines the invention in terms of desired characteristics, e.g. "reactive with a liquid binder," or wherein "the at least one polymer…is selected to be fusible at a temperature above the melting point or glass transition temperature of the at least one polymer." Neither phrase serves to define the particular resin(s) as to compositional constituents or limitations thereof.

With regard to the provisional rejection of claims 12, 20, 22 and 23 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-49 of copending Application No. 10/648,122, Kramer et al, it is pointed out to applicants that the powder recited in claim 24 of the reference would include a fusible polymer. This is evidenced when defining the parameter of the claim at paragraph [0039]. Nothing else is recited in the reference claims that would materially affect the resin. It is pointed out that to practice the invention of the copending application, one would need the fusible resin, as claimed. Applicants have not clearly shown why this is not so.

With regard to the provisional rejection of claims 12, 17, 18, 20, 22 and 23 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-25 of copending Application No. 10/650,571, Oriakhi et al, it is pointed out that the composition claims employ particulates, that are recited and claimed herein. Nothing else is recited in the reference claims that would materially affect the resin. It is pointed out that to practice the invention of the copending application, one would need the fusible resin, as claimed. Applicants have not clearly shown why this is not so.

With regard to the provisional rejection of claims 12, 17 and 18 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-41 of copending Application No. 10/339,824, Kasperchik, it is pointed out that the composition claims employ particulates, that are recited and claimed herein. Nothing else is recited in the reference claims that would materially affect the resin. It is pointed out that to practice the invention of the copending application, one would need the fusible resin, as claimed. Applicants have not clearly shown why this is not so. Kasperchik claims a particulate cationic polyelectrolyte, as herein claimed.

With regard to the provisional rejection of claims 12, 18, 20, 22 and 23 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-30 of copending Application No. 10/678,564, Oriakhi et al, it is pointed out that the composition claims employ particulates, that are recited and claimed herein. Nothing else is recited in the reference claims that would materially affect the resin. It is pointed out that to practice the invention of the copending application, one would need the fusible resin, as claimed. Applicants have not clearly shown why this is not so. Kasperchik claims a particulate cationic polyelectrolyte, as herein claimed.

With regard to the provisional rejection of claims 12, 18, 20, 22 and 23 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-80 of copending Application No. 10/434,313, Boyd et al, it is pointed out that the composition claims employ particulates, that are recited and claimed herein. Nothing else is recited in the reference claims that would materially affect the resin. It is pointed out that to practice the invention of the copending application, one would need the fusible resin, as claimed. Applicants have not clearly shown why this is not so. Kasperchik claims a particulate cationic polyelectrolyte, as herein claimed.

With regard to the rejection of claims 12, 17, 18, 20, 22 and 23 under 35 U.S.C. 102(e) as being anticipated by Oriakhi et al (US 2005/0046067), applicants assert that the inclusion of inorganic phosphate particles is excluded by the recitation of "consisting essentially of," yet have not shown how or why those particulates would materially affect the resin that is being claimed herein.

With regard to the rejection of claims 12, 17, 18, 20, 22 and 23 under 35 U.S.C. 102(e) as being anticipated by Kasperchik (US 2004/0161544), applicants assert that the inclusion of inert low density particles is excluded by the recitation of "consisting essentially of," yet have not shown how or why those particulates would materially affect the resin that is being claimed herein.

With regard to the rejection of claims 12, 18, 20 and 23 under 35 U.S.C. 102(e) as being anticipated by Oriakhi et al (US 2005/0074511), applicants assert that the inclusion of inorganic nanoparticles is excluded by the recitation of "consisting essentially of," yet have not shown how or why those particulates would materially affect the resin that is being claimed herein.

With regard to the rejection of claims 12, 18, 20, 22 and 23 rejected under 35 U.S.C. 102(e) as being anticipated by Boyd et al (US 2004/0224173), again, applicants have not shown that the added constituents would materially affect the resin(s) being claimed.

With regard to the rejection of claims 12, 18, 20, 22 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Schulman et al (US 2002/0125592), again, applicants have not shown that the added constituents would materially affect the resin(s) being claimed.

With regard to the rejections of claims under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Sietses et al (US

5,030,394), Lin et al (US 6,340,720), Danforth et al (US 5,738,817), Van Dyk et al (US 3,676,172), Gutman et al (US 6,503,677) and Creatura et al (US 6,004,717), applicants persist in the beklief that the claims are held to the same standard as if they recited "consists of," as opposed to reciting "consisting essentially of." Nothing has been shown on the record that the basic and novel characteristics of the resin(s) recited herein has been changed as a result of the additives of any of these references. The various additives are employed in art-recognized capacities and have not been shown to materially affect the resin(s) to which they are added.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan M. Nutter whose telephone number is 571-272-1076. The examiner can normally be reached on 9:30 a.m.-6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nathan M. Nutter
Primary Examiner
Art Unit 1711

nmn

6 July 2006